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10/597,496	07/27/2006	Hajime Maekawa	MTIS-40442	1885

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

EXAMINER	
BENGZON, GREG C	
ART UNIT	PAPER NUMBER
2444	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patdocket@pearne.com
dchervenak@pearne.com

Office Action Summary	Application No.	Applicant(s)	
	10/597,496	MAEKAWA ET AL.	
	Examiner	Art Unit	
	GREG BENGZON	2444	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 April 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *4,5,8-16,20,21,24-28,32,36,37 and 54-57* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *4-5, 8-16, 20-21, 24-28, 32, 36-37 , 54-57* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This application has been examined. Claims 4-5, 8-16, 20-21, 24-28, 32, 36-37 , 54-57 are pending. Claims 1-3, 6-7, 17-19, 22-23, 29-31, 33-35, 38-53 are cancelled. Claims 54-57 are submitted as new claims.

Making Final

Applicant's arguments filed 04/27/2009 have been fully considered but they are not persuasive.

The claim amendments regarding -- '*network interface*'-- and -- '*memory storing a relationship between a caller address to be included in the encapsulated communication target data when the information-processing device is the caller and a callee address to be included in the encapsulated communication target data when the information-processing device is the callee, wherein the address determination part determines the caller address for the information-processing device when the information-processing device is the caller and the callee address for the information-processing device when the information-processing device is the callee to be included in the communication target data according to the relationship based at least in part on the determination by the judgment part* ' -- do not overcome the disclosure by the prior art as applied in the prior Office Action, as shown below.

The Examiner is maintaining the rejection(s) using the same grounds for rejection and thus making this action FINAL.

Priority

This application claims benefits of priority from Foreign Application 2004-022902 filed January 30, 2004. (JAPAN)

The effective date of the claims described in this application is January 30, 2004.

Response to Arguments

Applicant's arguments filed 04/27/2009 have been fully considered but they are not persuasive.

The Applicant presents the following argument(s) [*in italics*]:

… Verma fails to suggest making a distinction between the caller and the callee… Verma fails to teach a computer-readable memory storing a relationship between between the caller and callee and their respective addresses. Further yet, Verma and what is alleged to be well known fail to suggest or render predictable that it is at least one of these addresses, having been determined based on the distinction between caller and callee, that are included in the encapsulated communication target data as claimed.

The Examiner respectfully disagrees with the Applicant.

Verma Column 6 Lines 10-35, Column 9 Lines 35-45 distinguishes between caller (tunnel initiatior) and callee (tunnel endpoint). Further Verma disclosed a table for storing relationships between endpoints and their addresses.

The Applicant presents the following argument(s) [*in italics*]:

… The operation of Verma is not affected by the status of the participants of the tunnel communication as either a caller or a callee as is the present invention. Thus, one of ordinary skill in the art would not find it obvious to make the distinction between caller and callee in view of Verma since there is no use in Verma for the information gathered by making such a distinction. The only suggestion to make a distinction between the caller and callee for tunnel communications is that gathered from impermissible hindsight in view of Applicants' own disclosure.

The Examiner respectfully disagrees with the Applicant.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., '*operation is affected by the status of the participants of the tunnel communication as either a caller or a callee*') are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

There is nothing in the claim language that indicates how the operation of the tunnel communication is affected by the determination of callee and caller, aside from the determination of their respective addresses and *transmitting a signal indicative of a determination by the judgment part whether the information processing device is the caller or the callee.*

The Examiner notes that transmitting a signal based in response to a tunnel initiator or tunnel endpoint is inherent in Verma, otherwise Verma is rendered inoperable.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 4-5, 8-10, 16, 20-21, 24-28 , 32, 36-37, 54-57 rejected under 35 U.S.C. 103(a) as being unpatentable over Verma (US Patent 6614809) in view of what was well-known in the networking art.

Verma disclosed (re. Claim 4) an information- processing device for a communication source that performs tunnel communication with a communication destination device, comprising:

a tunnel communication part *including a network interface for communicating with a server via a communication line of a communication network, wherein the tunnel communication part performs the tunnel communication over the communication network* with encapsulated communication target data,;(Verma-Column 4 Lines 15-45)

a judgment part for determining whether the information-processing device is a caller or a callee in the tunnel communication; (Verma-Column 8 Lines 30-45) and

transmitting a signal indicative of a determination by the judgment part whether the information processing device is the caller or the callee.

an address determination part including a computer-readable *memory storing a relationship between a caller address to be included in the encapsulated communication target data when the information-processing device is the caller and a callee address to*

be included in the encapsulated communication target data when the information-processing device is the callee, wherein the address determination part determines the caller address for the information-processing device when the information-processing device is the caller and the callee address for the information-processing device when the information-processing device is the callee to be included in the communication target data according to the relationship based at least in part on the determination by the judgment part. (Verma-figure 7a,Column 4 Lines 35-55, Column 6 Lines 15-35)

While Verma does not explicitly disclose distinguishing between a caller or callee it would have been obvious to a person of ordinary skill in the networking art that a remote client that originates the tunnel request is a caller, and the responding entity on the second network is a callee and that Verma is able to distinguish between the caller and callee.

Verma Column 6 Lines 10-35, Column 9 Lines 35-45 distinguishes between caller (tunnel initiatior) and callee (tunnel endpoint). Further Verma disclosed a table for storing relationships between endpoints and their network addresses. Verma uses the network address returned by the host name server in translating the tunnel packets without de-tunneling or re-tunneling the packets.

Claims 16, 28 (re. system) is rejected on the same basis as Claim 4.

Claims 20 (re. server) is rejected on the same basis as Claim 4.

Claims 32 (re. method) is rejected on the same basis as Claim 4.

The motivation to combine described in Claim 4 applies to Claims 16,28,20, and 32.

Verma disclosed (re. Claim 5,21) wherein the address determination part determines the address used for the communication target data by selecting from a plurality of predetermined addresses. (Verma- Column 6 Lines 35-55)

The motivation to combine described in Claim 4 applies to Claims 5,21.

Verma disclosed (re. Claim 8,24 ,36,37) a tunnel communication identifier acceptor for accepting a tunnel communication identifier for identifying the tunnel communication; wherein the address determination part determines an address used for the communication target data, according to the determination by the judgment part and the tunnel communication identifier. (Verma-Column 7 Lines 35-55)

The motivation to combine described in Claim 4 applies to Claims 8,24,36,37.

Verma disclosed (re. Claim 9,25) wherein the address determination part determines a part of the address used for the communication target data according to

the tunnel communication identifier, and determines another part of the address used for the communication target data according to the determination by the judgment part. (Verma-Column 6 Lines 35 thru Column 7 Lines 55)

The motivation to combine described in Claim 4 applies to Claims 9,25.

Verma disclosed (re. Claim 10,26) wherein the address determination part determines at least a part of the address used for the communication target data by selecting from a plurality of predetermined addresses. (Verma-Column 6 Lines 35 thru Column 7 Lines 55)

The motivation to combine described in Claim 4 applies to Claims 10,26.

Verma disclosed (re. Claim 27) wherein the address output part transmits the first address and the second address to the first information-processing device and the second information-processing device. (Verma-Column 6 Lines 35 thru Column 7 Lines 55)

The motivation to combine described in Claim 4 applies to Claims 27.

Verma disclosed (re. Claim 54) wherein the relationship includes a function that determines at least one of the caller address and the callee address as a function of a variable established by the signal from the judgment part. (Verma-Column 9 Lines 60

thru Column 10 Lines 5,*'host name resolution call'*)

Verma disclosed (re. Claim 55) wherein the relationship comprises a lookup table including at least one caller address corresponding to the caller and at least one callee address corresponding to the callee. (Verma-Column 9 Lines 60 thru Column 10 Lines 5,*'host name resolution call'*)

Verma disclosed (re. Claim 56) wherein the lookup table comprises a plurality of different caller addresses available to be selected for the caller and a plurality of different callee addresses available to be selected for the callee. (Verma-Column 9 Lines 60 thru Column 10 Lines 5,*'host name resolution call'*)

Verma disclosed (re. Claim 57) wherein the relationship comprises a function including a variable (Verma-'*host name value'*) that is given a value in response to said determining which of the first information-processing device and the second information-processing device performing tunnel communication is the caller and which is the callee, and wherein the function returns the caller address (Verma-' '*a reply containing*

the network address') or the callee address based on the value of the variable. (Verma- Column 9 Lines 60 thru Column 10 Lines 5,*'host name resolution call'*)

The motivation to combine described in Claim 4 applies to Claims 54-57.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 11-15 rejected under 35 U.S.C. 103(a) as being unpatentable over Verma (US Patent 6614809) in view of Keane (US Patent 7395354).

While Verma substantially disclosed the claimed invention Verma did not disclose (re. Claim 11) a detection part for detecting whether two or more addresses used for the communication target data are the same in the two or more tunnel communications; and an address changing part for changing at least one of the addresses used for the communication target data if the detection part detects that two or more addresses are the same.

Keane disclosed (re. Claim 11) a detection part for detecting whether two or more addresses used for the communication target data are the same in the two or more tunnel communications; (Keane-Column 8 Lines 25 thru Column 9 Lines 25) and an address changing part for changing at least one of the addresses used for the communication target data if the detection part detects that two or more addresses are the same. (Keane-Column 8 Lines 25 thru Column 9 Lines 25)

Verma and Keane are analogous art because they present concepts and practices regarding establishment of tunnels and tunnel identifiers. At the time of the invention it would have been obvious to combine Keane into Verma. The motivation for said combination would have been to enable a less cumbersome approach for resolving address conflicts in networks. (Keane-Column 2 Lines 15-25)

Verma-Keane disclosed (re. Claim 12) an address change information receiver for receiving address change information including information related to an address change; (Keane-Column 8 Lines 25 thru Column 9 Lines 25) and an address changing part for changing the address used for the communication target data, according to the address change information. (Keane-Column 8 Lines 25 thru Column 9 Lines 25)

The motivation to combine described in Claim 11 applies to Claims 12.

Verma-Keane disclosed (re. Claim 13) a detection part for detecting whether two or more addresses that are used for the communication target data are the same in the

two or more tunnel communications; (Keane-Column 8 Lines 25 thru Column 9 Lines 25)

an address agreement information transmitter for transmitting address agreement information showing that addresses are the same if the detection part detects that two or more addresses are the same; (Keane-Column 8 Lines 25 thru Column 9 Lines 25)

an address change information receiver for receiving address change information including information related to address change; (Keane-Column 8 Lines 25 thru Column 9 Lines 25) and

an address changing part for changing the address used for the communication target data according to the address change information. (Keane-Column 8 Lines 25 thru Column 9 Lines 25)

The motivation to combine described in Claim 11 applies to Claims 13.

Verma-Keane disclosed (re. Claim Claim 14) an address output part for outputting the address determined by the address determination part. (Keane-Column 8 Lines 25 thru Column 9 Lines 25)

The motivation to combine described in Claim 11 applies to Claims 14.

Verma-Keane disclosed (re. Claim 15) wherein the address output part transmits the address determined by the address determination part. (Keane-Column 8 Lines 25 thru Column 9 Lines 25)

The motivation to combine described in Claim 11 applies to Claims 15.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure

relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to enclosed PTO-892 form.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREG BENGZON whose telephone number is (571)272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571)272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Greg Bengzon/
Examiner, Art Unit 2444

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2444